

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
LAFAYETTE-OPELOUSAS DIVISION

IBERIA CREDIT BUREAU, INC., ET AL

VERSUS

CINGULAR WIRELESS, ET AL

CIVIL ACTION

NO. 6:01-2148

JUDGE LEMELLE

ORDER

Defendant Centennial Beauregard Cellular, L.L.C. d/b/a Centennial Wireless's Motion to Dismiss (Record Document No. 363) is **GRANTED IN PART**, dismissing the claims of Alfred J. Theriot, Al Theriot Construction, Inc., Iberia Credit Bureau, Inc., etc. and Wardell X. Gerhardt, as clearly barred by the class action settlement and release in *Abrusly v. Centennial Lafayette Cellular Corp.*, Case No. C-99-380 (LA. 33<sup>rd</sup> JDC, May 6, 2008). Said plaintiffs fail to show lack of reasonable notice of that settlement when proposed under the court's ordered process. Lacking also is any evidence of a timely objection or opt-out filing by said plaintiffs in that case.

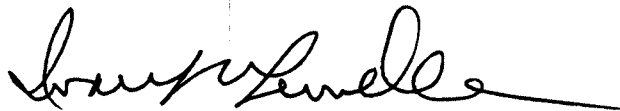
The motion is **DENIED** insofar as it seeks to dismiss the Sheriff's claims. The class as defined in the "Abrusly" class action settlement excludes "any state, federal, foreign or local government". Co-Plaintiff here is the Iberia Parish Sheriff as representative of the Iberia Parish Sheriff's Department. While defendant Centennial correctly points out that the "Sheriff's

Department" may not be a suable entity, no one doubts that the Sheriff and his employees are public governmental officials.

The instant exclusionary terms of the noted class settlement are ambiguous. Generally, state and local governments act through their duly elected and/or appointed public officials created and/or authorized by the state's public laws to execute governmental functions, e.g. enforce local and state laws, etc. The exclusion is phrased in overly broad terms, not as restricted or narrow as that suggested by movant here. The vague exclusionary terms do not define "government". This Court cannot inject its own definition in order to clarify that term or infer the parties intent for it's application.

Remaining plaintiffs and any party seeking to intervene or be substituted for a party on behalf of identifiable governmental interests against Centennial shall file the appropriate motions no later than **June 30, 2009**.

New Orleans, Louisiana, this 19<sup>th</sup> day of May, 2009.

A handwritten signature in black ink, appearing to read "James L. Smith", written over a horizontal line.

UNITED STATES DISTRICT JUDGE